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Southern District of New York  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :  
  
Plaintiff, :  
-v.- : **VERIFIED COMPLAINT**  
: **FOR FORFEITURE**  
\$2,288,487.88 IN UNITED STATES CURRENCY; : 21 Civ.  
and :  
\$3,879,446.38 IN UNITED STATES CURRENCY, :  
Defendants-*in-rem*.  
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Plaintiff United States of America, by its attorney Audrey Strauss, United States Attorney for the Southern District of New York, for its verified complaint, alleges, upon information and belief, as follows:

**I. JURISDICTION AND VENUE**

1. This action is brought pursuant to Title 21, United States Code, Section 881 by the United States of America seeking the forfeiture of \$2,288,487.88 in United States currency and \$3,879,446.38 in United States currency (together, the “Defendants-*in-rem*”).

2. This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1355.

3. Venue is proper under Title 28, United States Code, Section 1355(b)(1)(A) because certain actions and omissions giving rise to forfeiture took place in the Southern District of New York.

4. The Defendants-*in-rem* constitute moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by a person in exchange for a controlled substance or listed chemical in violation of Title 21, Chapter 13, Subchapter I, of the United States Code, and/or property traceable thereto and thus are subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6).

## **II. BACKGROUND**

5. From in or about 2012 through in or about March 2017, Rochester Drug Co-Operative, Inc., (“RDC”), a wholesale distributor of pharmaceutical products headquartered in Rochester, New York, violated federal narcotics laws by distributing to its pharmacy customers controlled substances – including dangerous opioids such as oxycodone and fentanyl - that the company knew were being sold and used illicitly. On or about April 23, 2019, an Information was filed against RDC charging it with violations of 21 U.S.C. § 846 (narcotics conspiracy); 18 U.S.C. § 371 (conspiracy to defraud the United States); and 21 U.S.C. § 842 (failure to file suspicious order reports). On the same date, RDC entered into a Deferred Prosecution Agreement (the “DPA”) with the United States with respect to these violations (the DPA and the accompanying Statement of Facts are attached hereto as Exhibit 1). As set forth in greater detail in the Statement of Facts, from fiscal year 2012 through fiscal year 2016, controlled substances represented approximately 14.6 percent of RDC’s revenues, for a total of approximately \$1.2 billion in controlled substances sales, including millions of dollars in sales to pharmacies located in the Southern District of New York during the offense period.

6. Under the DPA, RDC agreed to pay \$20,000,000 to the United States.

7. On or about May 3, 2019, RDC paid \$10,000,000 to the United States as a first installment pursuant to the DPA.

8. RDC subsequently filed for Chapter 11 bankruptcy (the “Bankruptcy Action”) in United States Bankruptcy Court for the Western District of New York (the “Bankruptcy Court”).

9. On or about June 22, 2020, the United States entered into a settlement agreement in the Bankruptcy Action with the Official Committee of Unsecured Creditors, the Manufacturers and Traders Trust Company, and RDC as debtor, whereby the United States would receive a portion of proceeds from the sale of two RDC real estate properties (the “Real Estate Transactions”) as a substitute *res* in an amount not to exceed the \$10,000,000.00 balance on RDC’s obligation pursuant to the DPA. (the “Settlement Agreement”).

10. On or about July 17, 2020, the Bankruptcy Court approved the Settlement Agreement. (The Settlement Agreement is attached hereto as Exhibit 2).

### **III. THE DEFENDANTS-IN-REM**

11. Pursuant and subject to the terms of the DPA and the Settlement Agreement, the Defendants-*in-rem*, representing the portion of the Real Estate Transactions to which the United States is entitled, have been transferred to the United States Marshals Service as a substitute *res* for moneys furnished to RDC in exchange for controlled substances in connection with RDC’s conduct described in the Statement of Facts. RDC agrees that the Defendants-*in-rem* are subject to civil forfeiture to the United States pursuant to 21 U.S.C. § 881.

#### **IV. CLAIM FOR FORFEITURE**

12. Incorporated herein are the allegations contained in paragraphs one through eleven of this Verified Complaint.

13. Pursuant to 21 U.S.C. § 881(a)(6), all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of Title 21, Chapter 13, Subchapter I, of the United States Code - which includes 21 U.S.C. § 846 - and all proceeds traceable to such an exchange, are subject to seizure and forfeiture to the United States.

14. By reason of the foregoing, the \$2,288,487.88 in United States currency and the \$3,879,446.38 in United States currency are subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6), as moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of 21 U.S.C. § 846, and/or constitute proceeds traceable to such an exchange.

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15. WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the Defendants-*in-rem* and that all persons having an interest in the Defendants-*in-rem* be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the Defendants-*in-rem* to the United States of America for disposition according to law, and that this Court grant plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York  
May 14, 2021

AUDREY STRAUSS  
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Southern District of New York  
Attorney for the Plaintiff  
United States of America

By:




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**DECLARATION OF VERIFICATION**

Michael Muller, pursuant to Title 28, United States Code, Section 1746, hereby declares under penalty of perjury that he is a Special Agent with the United States Drug Enforcement Administration; that he has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to the best of his knowledge, information and belief; and that the sources of his information and the grounds of his belief are his personal involvement in the investigation, and conversations with and documents prepared by law enforcement officers and others.

Executed on May 13, 2021

  
MICHAEL MULLER  
Special Agent  
U.S. Drug Enforcement Administration